

PPP AND EIDL FORGIVENESS



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About Rational Unicorn Legal Services PC

“Community Business Law for Everyone in the Community”

- We’re a different kind of law firm because we believe that business building and community building can and should go hand in hand.
- Certified Benefit Company (Believe in and practice 3 Ps: People, Planet, and Profits.
- Free 30 minute phone or in person consults for potential new clients.
- No large retainers taken to start working with the firm.
- Pay as you go flat-fee project billing.
- Three categories of clients:
 - small businesses
 - nonprofit organizations
 - artists and entertainers

What's wrong with the current plans? All sorts of things, but specifically...

- Funds ran out and now some folx are still shut out/don't have access to the funds.
- Not enough flexibility for businesses.
- People don't understand the rules and it's impossible when they change daily/weekly/monthly.
- Assumption that you need to hire everyone back/you haven't changed business models/they accepted a rehire.
- For some businesses 75% of expenses weren't for payroll prior to the pandemic.
- Government closures/reopenings (partial or entirely) didn't/don't line up with the percentages or the time frames set forth.

So how are things changing?

It's a wait and see...

- On May 28th, The House Passed legislation called Paycheck Protection Flexibility Act, H.R. 7010, making it easier for small businesses and other recipients to qualify for forgiveness of the loans.
- Still needs to be voted on by the Senate which also has their own bill. They have their own bill that doubles the covered period of spending to 16 weeks (instead of 8) but they don't want to change the 75%/25%

WHAT THE CHANGES WOULD LOOK LIKE (*If the House Bill Gets Approved in the Senate)

8 weeks to use the funds to 24 (3 times more time)

75%/25% split to:

60% would have to be used for payroll and 40% for rent, utilities

Minimum term period for the loans goes to five years from two-meaning companies not forgiven can delay any funds owed/spread them out into smaller payments.

Companies whose loans are forgiven can delay payment of payroll taxes

**FORGIVENESS OF LOAN ADVICE FOR ANYTIME
BETWEEN GETTING THE LOAN AND APPLYING FOR FORGIVENESS.**

1. Use it for eligible expenses.
2. Keep your employee headcount up as much as possible.
3. Don't reduce an employee's wages by more than 25%
4. Document everything.
5. Talk with your lender.
6. Apply for **loan forgiveness**.



**Paycheck Protection Program
Loan Forgiveness Application**

OMB Control Number 3245-0407
Expiration Date: 10/31/2020

PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address		Business TIN (EIN, SSN)	Business Phone
		() -	
		Primary Contact	E-mail Address

SBA PPP Loan Number: _____ Lender PPP Loan Number: _____

PPP Loan Amount: _____ PPP Loan Disbursement Date: _____

Employees at Time of Loan Application: _____

Employees at Time of Forgiveness Application: _____

EIDL Advance Amount: _____ EIDL Application Number: _____

Payroll Schedule: The frequency with which payroll is paid to employees is:

- Weekly
 Biweekly (every other week)
 Twice a month
 Monthly
 Other _____

Covered Period: _____ to _____

Alternative Payroll Covered Period, if applicable: _____ to _____

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here:

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10): _____

Line 2. Business Mortgage Interest Payments: _____

Current Forgiveness Process

If you want to get policy wonky...

<https://www.sba.gov/sites/default/files/2020-05/IFR%20Forgiveness%20FINAL.pdf>

Current Forgiveness Process Straight from the SBA Horse's Mouth

“Borrowers seeking forgiveness must document their average number of FTE employees during the covered period (or the alternative payroll covered period) and their selected reference period,” the SBA interim final rule states. “For purposes of this calculation, borrowers must divide the average number of hours paid for each employee per week by 40, capping this quotient at 1.0. For example, an employee who was paid 48 hours per week during the covered period would be considered to be an FTE employee of 1.0.

“For employees who were paid for less than 40 hours per week, borrowers may choose to calculate the full-time equivalency in one of two ways. First, the borrower may calculate the average number of hours a part-time employee was paid per week during the covered period. For example, if an employee was paid for 30 hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.75. Similarly, if an employee was paid for ten hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.25. Second, for administrative convenience, borrowers may elect to use a full-time equivalency of 0.5 for each part-time employee. The Administrator recognizes that not all borrowers maintain hours-worked data, and has decided to afford such borrowers this flexibility in calculating the full-time equivalency of their part-time employees.”

In More Simple Terms...

When your timeline hits for forgiveness, you contact your lender.

You fill out the form for forgiveness. The lender has up to 60 days to make a decision on this form. They then send this decision to the SBA. The SBA has 90 days to pay back the lender. If applicable, SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to the Lender

If the SBA determines in the course of its review that the borrower was ineligible for the PPP loan based on the provisions of the CARES Act, SBA rules or guidance available at the time of the borrower's loan application etc. the loan will not be eligible forgiveness. The lender is responsible for notifying the borrower of the forgiveness amount. If only a portion of the loan is forgiven, or if the forgiveness request is denied, any remaining balance due on the loan must be repaid by the borrower on or before the two-year maturity of the loan (*or 5 year period if this changes).

If your lender incorrectly deems you to not deserve forgiveness or some other process isn't how you wanted it to be, you can appeal to the SBA.

Other Things to Think About From a Lawyer...

- *Are your current contracts and/or commercial lease renegotiated/have addendums so you don't get flooded with legal issues or lawsuits in the months that follow?*
- *If you are restructuring your business-did you make changes to your Secretary of State filing? If you're virtual do you have a website terms of use and privacy policy on your website that reflect this? Are you protecting your IP?*
- *Do you have event liability waivers re COVID-19 or contract changes that reflect health, safety, and liability?*

Please get ahold of us if you need something. Our clients are small businesses, nonprofits, and artists/entertainers. Don't call a lawyer when you feel you deserve one-that's now. Don't call a lawyer when there's only a problem-let's prevent them. Some of the things we do:



Contract Review/Drafting/Negotiating/Revising
Commercial Lease Review and Negotiation
Opening/Closing/Restructuring A Business
Partnership Agreements/Dissolutions
Legal Consulting/Legal Auditing of Liabilities
Trademarking/Protecting Your Brand

Best way to contact us: www.rationalunicorn.com/contact

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